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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/927,315	08/10/2001	Charles S. Zuker	23540-10616/US	4699

758 7590 04/10/2007  
FENWICK & WEST LLP  
SILICON VALLEY CENTER  
801 CALIFORNIA STREET  
MOUNTAIN VIEW, CA 94041

EXAMINER
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BRANNOCK, MICHAEL T

ART UNIT	PAPER NUMBER
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1649

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/10/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

# Office Action Summary

Application No.

09/927,315

Applicant(s)

ZUKER ET AL.

Examiner

Michael Brannock

Art Unit

1649

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 16 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 49-51,56-58,67,69-72,75 and 76 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 76 is/are allowed.
- 6) ☐ Claim(s) 49-51,56-58,67,69-72 and 75 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: <u>SCORE Results</u> .                               |

**DETAILED ACTION*****Status of Application: Claims and Amendments***

Applicant is notified that the finality of the prior Office action (11/13/2006) is withdrawn to ensure that Applicant has a fair opportunity to respond to the issues raised. This Office action supercedes and replaces the prior Office action of 11/13/2006. This Office action is also responsive to Applicant's amendments and arguments presented as the after final amendment 1/16/2007 which has been entered in full.

***Claim Rejections - 35 USC § 102***

Claims 49, 50, 51, 56, 57, 58, 67, 69-72, 75 stand rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Publication 20030232407 published December 18, 2003 to Zoller et al., as set forth previously.

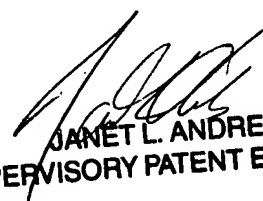
Applicant argues that Zoller does not appear to include the element "wherein the T1R2 polypeptide has a greater than 90% identity to SEQ ID NO: 7 or 8". This argument has been fully considered but not deemed persuasive. The rT1R2 disclosed by Zoller is 100%% identical to the instant SEQ ID NO: 7, and thus anticipates the claims. As Applicant points out, a SEQ ID NO for the rT1R2 disclosed by Zoller cannot, for some reason, be found in the printed publication. The SEQ ID NO is 17; attached is a print-out of a search of the instant SEQ ID NO: 7 against the 20030232407 publication. SEQ ID NO: 17 was known in the prior art as GPCR-B4 as disclosed by prior application 60284547, filed 4/19/2001, on page 13. Also, the rT1R3 is disclosed as SEQ ID NO: 14 in the 60284547 application.

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Applicant argues that it is unknown if Zoller's rT1R2 sequence is greater than 90% identical to the elected mouse SEQ ID NO: 8. This argument has been fully considered but not deemed persuasive. Attached is an alignment between Zoller's SEQ ID NO: 17 and the instant SEQ ID NO: 8 showing them to be 91.9% identical.

Applicant requests that the examiner point-out where priority for Zoller's claims can be found. As set forth above, priority for the receptors themselves can be found at least in prior application 60284547. More critically however, the concept of T1R2/T1R3 heterodimerization can be found at least on page 7 of prior Application 60300434, filed 6/26/2001.

The rejection of claims 49, 50, 51, 56, 57, 58, 67, 69-72, 75 and 76 under 35 U.S.C. 103(a) as being obvious over 20030232407 to Zoller et al. in view of U.S. Patent No: 6383778 is withdrawn in view of Applicant's statement that the instant application and U.S. Patent No: 6383778 were commonly owned at the time the invention of the instant application was made. Thus the 6383778 reference is disqualified under 35 U.S.C. 103(c) as prior art in a rejection under 35 U.S.C. 103(a). See MPEP § 706.02(l)(1) and § 706.02(l)(2).

  
JANET L. ANDRES  
SUPERVISORY PATENT EXAMINER

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***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Brannock, Ph.D., whose telephone number is (571) 272-0869. The examiner can normally be reached on Mondays through Fridays from 10:00 a.m. to 4:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Janet Andres, Ph.D., can be reached at (571) 272-0867. Official papers filed by fax should be directed to **571-273-8300**.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.

MB

A handwritten signature, possibly 'VY', in black ink.

April 2, 2007